

House File 2266 - Introduced

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BY HEARTSILL and WOLFE

A BILL FOR

1 An Act relating to the restoration of the rights of
2 citizenship, and providing for a contingent effective date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

RESTORATION OF THE RIGHT TO VOTE

Section 1. Section 39A.1, subsection 2, Code 2018, is amended to read as follows:

2. The purpose of **this chapter** is to identify actions which threaten the integrity of the election process and to impose significant sanctions upon persons who intentionally commit those acts. It is the intent of the general assembly that offenses with the greatest potential to affect the election process be vigorously prosecuted and strong punishment meted out through the imposition of felony sanctions which, as a consequence, remove the voting rights of the offenders until such rights are restored by the governor, by the president of the United States, or by operation of law. Other offenses are still considered serious, but based on the factual context in which they arise, they may not rise to the level of offenses to which felony penalties attach. The general assembly also recognizes that instances may arise in which technical infractions of **chapters 39 through 53** may occur which do not merit any level of criminal sanction. In such instances, administrative notice from the state or county commissioner of elections is sufficient. Mandates or proscriptions in chapters 39 through 53 which are not specifically included in this chapter shall be considered to be directive only, without criminal sanction.

Sec. 2. Section 43.18, subsection 9, Code 2018, is amended to read as follows:

9. A statement that the candidate is aware that the candidate is disqualified from holding office if the candidate has been convicted of a felony or other infamous crime and the candidate's rights have not been restored by the governor, ~~or~~ by the president of the United States, or by operation of law.

Sec. 3. Section 43.67, subsection 2, paragraph i, Code 2018, is amended to read as follows:

i. A statement that the candidate is aware that the

1 candidate is disqualified from holding office if the candidate
2 has been convicted of a felony or other infamous crime and the
3 candidate's rights have not been restored by the governor, ~~or~~
4 by the president of the United States, or by operation of law.

5 Sec. 4. Section 44.3, subsection 2, paragraph i, Code 2018,
6 is amended to read as follows:

7 *i.* A statement that the candidate is aware that the
8 candidate is disqualified from holding office if the candidate
9 has been convicted of a felony or other infamous crime and the
10 candidate's rights have not been restored by the governor, ~~or~~
11 by the president of the United States, or by operation of law.

12 Sec. 5. Section 45.3, subsection 9, Code 2018, is amended
13 to read as follows:

14 9. A statement that the candidate is aware that the
15 candidate is disqualified from holding office if the candidate
16 has been convicted of a felony or other infamous crime and the
17 candidate's rights have not been restored by the governor, ~~or~~
18 by the president of the United States, or by operation of law.

19 Sec. 6. Section 48A.6, subsection 1, Code 2018, is amended
20 to read as follows:

21 1. A person who has been convicted of a felony as defined
22 in [section 701.7](#), or convicted of an offense classified as a
23 felony under federal law. If the person's rights are later
24 ~~restored by the governor, or by the president of the United~~
25 ~~States,~~ pursuant to section 914.8, or by a pardon issued by the
26 governor or the president of the United States, the person may
27 register to vote.

28 Sec. 7. Section 57.1, subsection 2, paragraph c, Code 2018,
29 is amended to read as follows:

30 *c.* That prior to the election the incumbent had been duly
31 convicted of a felony, as defined in [section 701.7](#), and that
32 the judgment had not been reversed, annulled, or set aside, nor
33 the incumbent pardoned by the governor or the president of the
34 United States or restored to the rights of citizenship ~~by the~~
35 ~~governor under [chapter 914](#)~~ pursuant to section 914.8, at the

1 time of the election.

2 Sec. 8. Section 123.3, subsection 34, paragraph d, Code
3 2018, is amended to read as follows:

4 d. The person has not been convicted of a felony. However,
5 if the person's conviction of a felony occurred more than five
6 years before the date of the application for a license or
7 permit, and if the person's rights of citizenship have been
8 restored by the governor pursuant to sections 914.1 through
9 914.6, the administrator may determine that the person is of
10 good moral character notwithstanding such conviction.

11 Sec. 9. Section 161A.5, subsection 3, paragraph b, Code
12 2018, is amended to read as follows:

13 b. Every candidate shall file with the nomination papers
14 an affidavit stating the candidate's name, the candidate's
15 residence, that the person is a candidate and is eligible for
16 the office of commissioner, and that if elected the candidate
17 will qualify for the office. The affidavit shall also state
18 that the candidate is aware that the candidate is disqualified
19 from holding office if the candidate has been convicted of a
20 felony or other infamous crime and the candidate's rights have
21 not been restored by the governor, or by the president of the
22 United States, or by operation of law.

23 Sec. 10. Section 277.4, subsection 2, paragraph b, Code
24 2018, is amended to read as follows:

25 b. Signers of nomination petitions shall include their
26 addresses and the date of signing, and must reside in the same
27 director district as the candidate if directors are elected
28 by the voters of a director district, rather than at-large.
29 A person may sign nomination petitions for more than one
30 candidate for the same office, and the signature is not invalid
31 solely because the person signed nomination petitions for
32 one or more other candidates for the office. The petition
33 shall be filed with the affidavit of the candidate being
34 nominated, stating the candidate's name, place of residence,
35 that such person is a candidate and is eligible for the office

1 the candidate seeks, and that if elected the candidate will
2 qualify for the office. The affidavit shall also state that
3 the candidate is aware that the candidate is disqualified
4 from holding office if the candidate has been convicted of a
5 felony or other infamous crime and the candidate's rights have
6 not been restored by the governor, ~~or~~ by the president of the
7 United States, or by operation of law.

8 Sec. 11. Section 376.4, subsection 2, paragraph b, Code
9 2018, is amended to read as follows:

10 b. The petition must include the affidavit of the individual
11 for whom it is filed, stating the individual's name, the
12 individual's residence, that the individual is a candidate and
13 eligible for the office, and that if elected the individual
14 will qualify for the office. The affidavit shall also state
15 that the candidate is aware that the candidate is disqualified
16 from holding office if the candidate has been convicted of a
17 felony or other infamous crime and the candidate's rights have
18 not been restored by the governor, ~~or~~ by the president of the
19 United States, or by operation of law.

20 Sec. 12. Section 914.2, Code 2018, is amended to read as
21 follows:

22 **914.2 Right of application.**

23 Except as otherwise provided in section 902.2 or 914.8, a
24 person convicted of a criminal offense has the right to make
25 application to the board of parole for recommendation or to
26 the governor for a reprieve, pardon, commutation of sentence,
27 remission of fines or forfeitures, or restoration of rights of
28 citizenship at any time following the conviction.

29 Sec. 13. NEW SECTION. **914.8 Restoration of right to**
30 **register and to vote.**

31 1. A person convicted of a felony criminal offense who has
32 been discharged from probation, parole, or work release or
33 who is released from confinement under section 902.6 because
34 the person has completed the person's term of confinement
35 shall have the person's right to register to vote and to vote

1 restored.

2 2. As soon as practicable, the department of corrections
3 or judicial district department of correctional services,
4 whichever is applicable, shall provide written notice to each
5 person, as described in subsection 1, who, on or after January
6 14, 2011, has been discharged from probation, parole, or work
7 release or who, on or after January 14, 2011, has completed a
8 term of confinement, that the person's right to register to
9 vote and to vote has been restored. The notice shall include a
10 voter registration form.

11 3. The department of corrections shall monthly provide a
12 list of all persons notified under subsection 2 in the previous
13 month to the state registrar of voters who shall provide the
14 information to the county registrars of voters as deemed
15 necessary.

16 4. A person described in subsection 1 may still make
17 application for a restoration of citizenship rights pursuant
18 to sections 914.1 through 914.6. Such an application, unless
19 withdrawn, shall be processed as required by this chapter.

20 5. This section shall not relieve a person of any unpaid
21 restitution, fine, or other obligation resulting from
22 conviction.

23 DIVISION II

24 RESTORATION OF FIREARM RIGHTS

25 Sec. 14. Section 724.26, subsection 1, Code 2018, is amended
26 to read as follows:

27 1. A Except as provided in section 724.26A, a person who
28 is convicted of a felony in a state or federal court, or who
29 is adjudicated delinquent on the basis of conduct that would
30 constitute a felony if committed by an adult, and who knowingly
31 has under the person's dominion and control or possession,
32 receives, or transports or causes to be transported a firearm
33 or offensive weapon is guilty of a class "D" felony.

34 Sec. 15. NEW SECTION. 724.26A Restoration of rights.

35 1. A person convicted of a class "D" felony, other than a

1 forcible felony or domestic abuse assault under section 708.2A,
2 subsection 5, may apply to the department of public safety for
3 the restoration of the right to possess, receive, or transport
4 or cause to be transported a firearm, if all of the following
5 apply:

6 *a.* Ten years have elapsed from the date of the class "D"
7 felony conviction.

8 *b.* The applicant has no pending criminal charges and no
9 felony convictions in the previous ten years.

10 *c.* The applicant would otherwise be eligible to possess,
11 receive, or transport or cause to be transported a firearm.

12 2. The department of public safety shall conduct a criminal
13 background check on the applicant including an inquiry of the
14 national instant criminal background check system maintained
15 by the federal bureau of investigation or any successor agency
16 to determine if ten years have elapsed from the date of the
17 class "D" felony conviction, the person has no pending criminal
18 charges and no felony convictions in the previous ten years,
19 and the person would otherwise be eligible to possess, receive,
20 or transport or cause to be transported a firearm.

21 3. *a.* If the application is approved by the department
22 of public safety, the department shall issue a certificate
23 of restoration of firearm rights to the applicant. The
24 certification shall be proof that the firearm rights of the
25 applicant have been restored unless the rights are subsequently
26 taken away by a disqualifying event.

27 *b.* One copy of the certification shall be delivered to the
28 applicant and one copy shall be delivered to the clerk of the
29 district court where the judgment of the class "D" felony is
30 of record.

31 *c.* If the department of public safety denies the
32 application, the department shall provide the applicant with
33 written notification of the denial and the reason for the
34 denial. An applicant may seek review of the denial pursuant to
35 subsection 4.

1 4. The applicant may file an appeal with an administrative
2 law judge by filing a copy of the denial with a written
3 statement that clearly states the applicant's reasons rebutting
4 the denial with a fee of ten dollars. Additional supporting
5 information relevant to the proceedings may also be included.

6 a. The administrative law judge shall, within forty-five
7 days of receipt of the request for an appeal, set a hearing
8 date. The hearing may be held by telephone or video conference
9 at the discretion of the administrative law judge. The
10 administrative law judge shall receive witness testimony and
11 other evidence relevant to the proceedings at the hearing. The
12 hearing shall be conducted pursuant to chapter 17A.

13 b. Upon conclusion of the hearing, the administrative
14 law judge shall order that the denial be either rescinded or
15 sustained. An applicant shall have the right to judicial
16 review in accordance with the terms of chapter 17A.

17 c. The standard of review under this section shall be clear
18 and convincing evidence that the department's written statement
19 of the reasons for the denial constituted probable cause to
20 deny the application.

21 5. An applicant may still make an application for
22 restoration of citizenship rights pursuant to sections 914.1
23 through 914.6.

24 6. The department of public safety shall adopt rules
25 pursuant to chapter 17A to administer this section.

26 Sec. 16. Section 914.7, Code 2018, is amended to read as
27 follows:

28 **914.7 Rights not restorable.**

29 1. ~~Notwithstanding~~ Except as provided in section 724.26A,
30 notwithstanding any other provision of **this chapter**, a person
31 who has been convicted of a forcible felony, a felony violation
32 of **chapter 124** involving a firearm, or a felony violation of
33 chapter 724 shall not have the person's rights of citizenship
34 restored to the extent of allowing the person to receive,
35 transport, or possess firearms.

1 ~~2. Notwithstanding~~ Except as provided in section 724.26A,
2 ~~notwithstanding~~ any provision of this chapter, a person
3 seventeen years of age or younger who commits a public offense
4 involving a firearm which is an aggravated misdemeanor against
5 a person or a felony shall not have the person's rights of
6 citizenship restored to the extent of allowing the person to
7 receive, transport, or possess firearms.

8 DIVISION III

9 CONTINGENT EFFECTIVE DATE

10 Sec. 17. CONTINGENT EFFECTIVE DATE. This Act takes effect
11 on the date an amendment to Article II, section 5, of the
12 Constitution of the State of Iowa is approved and ratified
13 by the general public which allows a person convicted of an
14 infamous crime to be an elector.

15 EXPLANATION

16 The inclusion of this explanation does not constitute agreement with
17 the explanation's substance by the members of the general assembly.

18 This bill relates to the restoration of the rights of
19 citizenship.

20 DIVISION I — RESTORATION OF VOTING RIGHTS. The bill
21 requires that the right to register to vote and to vote be
22 restored for any individual who has been discharged from
23 criminal sentence for any felony. To be discharged from
24 criminal sentence, under the bill, an individual must also be
25 discharged from any accompanying term of probation, parole, or
26 supervised release. The bill does not relieve the individual
27 of unpaid restitution, fines, or other obligations resulting
28 from conviction. The bill does not limit an individual's
29 ability to apply to the governor for a restoration of
30 citizenship rights, as currently provided for in Code chapter
31 914.

32 The bill requires that the department of corrections notify
33 an individual whose right to register to vote and to vote
34 has been restored on or after January 14, 2011. The bill
35 requires, where applicable, the judicial district department of

1 correctional services to notify an individual whose rights have
2 been restored. The department of corrections is also required
3 to monthly provide a list of the individuals notified to the
4 state registrar of voters (secretary of state).

5 DIVISION II — RESTORATION OF FIREARM RIGHTS. The bill
6 provides a person convicted of a class "D" felony, other than a
7 forcible felony or domestic abuse assault under Code section
8 708.2A(5), may apply to the department of public safety for
9 the restoration of the right to possess, receive, or transport
10 or cause to be transported a firearm, if all of the following
11 apply: 10 years have elapsed from the date of the class
12 "D" felony conviction, the applicant has no pending criminal
13 charges or felony convictions in the previous 10 years, and the
14 applicant would otherwise be eligible to possess, receive, or
15 transport or cause to be transported a firearm.

16 The bill requires the department of public safety to conduct
17 a criminal background check on the applicant including an
18 inquiry of the national instant criminal background check
19 system maintained by the federal bureau of investigation or
20 any successor agency to determine if the application meets the
21 requirements for restoration of firearm rights established in
22 the bill.

23 If the application is approved by the department of public
24 safety, the bill requires the department of public safety to
25 issue a certificate of restoration of firearm rights to the
26 applicant. The bill specifies the certification shall be proof
27 the firearm rights of the applicant have been restored unless
28 the rights are subsequently taken away by a disqualifying
29 event.

30 The bill requires one copy of the certification be delivered
31 to the applicant and one copy shall be delivered to the clerk
32 of the district court where the judgment of the class "D"
33 felony is of record.

34 If the department of public safety denies the application
35 under the bill, the department shall provide the applicant

1 with written notification of the denial and the reason for the
2 denial. The bill permits an applicant to seek review of the
3 denial.

4 If the applicant appeals the denial of the application
5 of the department of public safety, the bill requires the
6 administrative law judge to set a hearing date within 45 days
7 of receipt of the request for an appeal. The hearing may be
8 held by telephone or video conference at the discretion of the
9 administrative law judge. The administrative law judge shall
10 receive witness testimony and other evidence relevant to the
11 proceedings at the hearing. The hearing shall be conducted
12 pursuant to Code chapter 17A.

13 The bill does not prohibit an applicant to make an
14 application for restoration of citizenship rights pursuant to
15 Code sections 914.1 through 914.6.

16 The bill also makes conforming changes to Code sections
17 724.26 and 914.7.

18 DIVISION III — CONTINGENT EFFECTIVE DATE. The bill takes
19 effect on the date an amendment to Article II, section 5,
20 of the Constitution of the State of Iowa is ratified by the
21 general public which allows a person convicted of an infamous
22 crime to be an elector.